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10/817,631

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REMARKS

Favorable reconsideration of this application is requested in view of the foregoing amendments and the following remarks. Claims 1-4 and 28-30 are pending in this application. Claims 5-27 were previously canceled without prejudice or disclaimer.

Support for amending claim 1 to require recording and accruing system usage data in the on board memory of the programmable digital thermostat according to each of the plurality of system users' personal identification numbers is found in the paragraph bridging pages 6-7 of the specification as originally filed. Support for amending claim 28 to require recording and accruing system usage data in an on board memory of the programmable thermostat according to each user's personal identification numbers is found in the paragraph bridging pages 6-7 of the specification as originally filed..

Claims 3 and 30 stand rejected under 35 USC 112(2) as indefinite. The Examiner's careful consideration of, and various suggested changes to, the phraseology of the claims is appreciated. The claims as amended are thoroughly revised. The phrase "network storage devices" is deleted from claim 3. Claim 30 is amended to recite "the interactive user interface of the programmable thermostat" based on explicit antecedent at lines 1-2 of claim 28.

Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1-4 were rejected under 35 USC 102(e) as anticipated by U.S. Patent No. 6,198,996 to Berstis. With regard to the claims as amended, this rejection is untenable.

Berstis discloses a system for setting automotive preferences and parameters. Berstis mentions comfort preferences and higher level security authorization.

However, the Berstis reference does not describe or teach recording and accruing system usage data in the on board memory of the programmable digital thermostat according

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to each of the plurality of system users' personal identification numbers as now required by independent claim 1 as amended (e.g., hours of additional system usage). The preferences and parameters of Berstis are settings; they are not historical records. Even, when a Berstis preference or parameter is changed Berstis overwrites the old setting, which is inopposite to accruing.

The presently claimed invention is not disclosed or suggested by Berstis because the Berstis reference does not describe or teach recording and accruing system usage data in the on board memory of the programmable digital thermostat according to each of the plurality of system users' personal identification numbers as now required by independent claim 1 '28 as amended.

Accordingly, withdrawal of this rejection is respectfully requested.

Claims 28-29 stand rejected under 35 USC 103 as obvious over U.S. Patent No. 6,198,996 to Berstis.

The presently claimed invention is not disclosed or suggested by Berstis because the Berstis reference does not describe or teach recording and accruing system usage data in an on board memory of the programmable thermostat according to each user's personal identification numbers as now required by independent claim 28 as amended. As noted above, the preferences and parameters of Berstis are settings; they are not historical records. Even, when a Berstis preference or parameter is changed Berstis overwrites the old setting, which is teaching away from accruing.

Accordingly, withdrawal of this rejection is respectfully requested.

Other than as explicitly set forth above, this reply does not include acquiescence to statements, assertions, assumptions, conclusions, or combination thereof in the Office Action. In view of the above, all the claims are considered patentable and allowance of all the claims is

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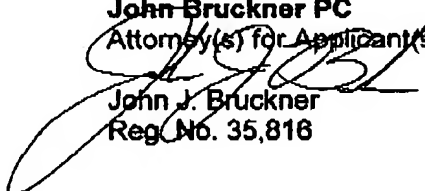
respectfully requested. The Examiner is invited to telephone the undersigned (at direct line 512-394-0118) for prompt action in the event any issues remain that prevent the allowance of any pending claims.

No fee is due for filing this Reply because it is being filed within the shortened statutory period for response as set in the Office Action dated January 26, 2005.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3204 of John Bruckner PC.

Respectfully submitted,

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Dated: April 26, 2005

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